

Remarks

Claim Amendments

Entry and consideration of the instant claim amendments after final is respectfully requested as the instant claim amendments place the application in condition for allowance and/or in better format for Appeal and/or further limit issues which may be raised on appeal.

Applicants respectfully submit that the instant amendments were not previously submitted as the issues addressed by the amended claims were only raised for the first time in the Final action more specifically, as noted by the Examiner at Page 8, under the section heading Response to Arguments, "Applicants arguments with respect to claim 1 have been considered but are moot in view of the grounds of New Rejection."

Accordingly, Applicants could not have made the requisite claim amendments obviating the issues at an earlier stage in the proceedings as the instant rejections comprise new grounds of rejection. Additionally, the instant claim amendments merely obviate the issues newly raised by the Examiner and do not change the scope of the claims or add new matter which would necessitate further substantial examination and/or search by the Examiner.

In view thereof, favorable action is respectfully requested.

Allowable Subject Matter

The Examiner indicated that the subject matter of claim 18 would be allowable if the amended to overcome the antecedent basis rejections under 35 USC § 112. Applicants have amended claim 18 and respectfully submit that claim 18 is in proper form and in condition for allowance.

Applicants have presented new claims 19-21 to more clearly describe the instant invention.

Claim Rejections under 35 USC §112

Examiner rejected claim 18 under 35 USC §112 as being indefinite for failing to particularly point out and distinctly claim that which the inventor regards as the invention.

Applicant has amended claim 18 in a manner to obviate the rejection.
In view thereof, the rejection should be reversed.

Claim Rejections under 35 USC §103

1. The Examiner rejected claims 1, 4, 5, 8-10, 15 and 17 under 35 USC §103 as being obvious in view of APA and Schreiner (US 4,393,952).

Applicant respectfully traverses the rejection.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added).

When applying 35 U.S.C. 103, the following tenets of patent law must be adhered to:

(A) The claimed invention must be considered as a whole;

(B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;

(C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and

(D) Reasonable expectation of success is the standard with which obviousness is determined. *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986) (emphasis added).

“In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned.” *In re Oetiker*, 977

F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also *In re Deminski*, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); *In re Clay*, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992) (emphasis added). Additionally, while Patent Office classification of references and the cross-references in the official search notes of the class definitions are some evidence of “nonanalogy” or “analogy” respectively, “the similarities and differences in structure and function of the inventions carry far greater weight.” *In re Ellis*, 476 F.2d 1370, 1372, 177 USPQ 526, 527 (CCPA 1973)(emphasis added).

“When patentability turns on the question of obviousness, the search for and analysis of the prior art includes evidence relevant to the finding of whether there is a teaching, motivation or suggestion to select and combine the references relied on as evidence of obviousness...the [Examiner] must explain the reasons one of ordinary skill in the art would have been motivated to select the references and to combine them to render the claimed invention obvious.” *In re Lee*, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002) (emphasis added).

Finally, “it is impermissible to use the claimed invention as an instruction manual or “template” to piece together the teaching of the prior art so that the claimed invention is rendered obvious.” *In re Fritch*, 972 F.2d 1260, (Fed. Cir. 1992). Indeed, most inventions arise from combinations of known elements in the art such that “[i]f identification of each claimed element in the prior art were sufficient to negate patentability, very few patents would ever issue.” *In re Rouffet*, 149 F.3d 1350, 1357-58, 47 USPQ2d 1453, 1457 (Fed. Cir. 1998) (internal citations omitted). Applying the above principles to the present case, it is respectfully asserted that Examiner has not met the *prima facie* showing required as outlined above to support an obviousness rejection.

In the instant case, there is simply no objective teaching, suggestion or motivation to select and combine the references as cited by the Examiner to arrive at the instant invention.

First, the present claimed invention relates to a steerable wheeled vehicle wherein the wheels are steerable relative to a longitudinal axis of the vehicle. Schreiner relates to a tracked vehicle, which does not comprise wheels that are steerable relative to a longitudinal axis of a vehicle. Consequently, in view of the very apparent differences between wheeled vehicles and

tracked vehicles, one having skill in the art would not look to tracked vehicles for answers to problems related to wheeled vehicles.

Second, the mechanisms for steering/turning tracked vehicles are very different from that of wheeled vehicles. When a tracked vehicle is turned the sprockets are not rotated relative to the longitudinal axis of a vehicle, but rather, the rotational speed of one sprocket is varied relative to the other sprocket to cause one track to move faster than the other. Accordingly, this technique for turning the tracked vehicle requires that the ground engaging members, i.e., the tracks, slip relative to the other. As a result, tracked vehicles can be turned on the spot, with zero speed forward. As disclosed by Shreiner, the turning function is integrated into the transmission arrangement for distributing tractive force from the engine to the wheels. The present claimed invention, on the other hand, comprises a steering system for turning the wheels relative to the longitudinal axis of the vehicle. In addition to the steering function, there is a transmission arrangement for distributing tractive force from an engine to the wheels. More importantly, however, the present invention is directed to avoiding, and/or preventing or minimizing, slip of the ground engaging members (the wheels) relative to the others. This is accomplished according to the present invention by providing the wheels with a control unit for the independent adjustment of the rotational speed of the wheels. Consequently, the present invention compensates for different radii that the wheels must traverse during cornering, i.e., each control unit is adapted to affect the rotational speed of a wheel during cornering, e.g., to increase the rotation of an outermost wheel.

Thus, there simply is no teaching, suggestion or motivation to combine the teachings of APA with Schreiner. As a matter of fact, given the vast differences between the teachings of the APA, which discloses only that which is illustrated in the Figure and Schreiner, it more appears that the Examiner has applied impermissible hindsight reconstruction and used the Applicants disclosure as a template to render the claimed invention obvious. Simply put, APA discloses an articulated vehicle, Schreiner discloses a tracked vehicle and is wholly silent regarding combining his teaching with those of others to arrive at the instant invention.

Finally, the Examiner's comments regarding the motivation to combine Schreiner with those of others as emanating from "the possibilities of modern technology [being] advantageously combined...a good total effect and efficiency is obtained," are disingenuous and actually serve as compelling evidence of the use of impermissible hindsight reconstruction. Indeed, further review of the passage cited by the Examiner reveals, "The invention indicates a solution in which the possibilities of modern technology are advantageously combined, whereby by branching the drive power a good total effect and efficiency is obtained and the velocity range **of the track laying vehicle can be very large. The invention therefore resides in a gear arrangement for track-laying vehicles.**"

Consequently, there is simply no teaching, suggestion or motivation contained in either APA or Schreiner to combine the respective teachings thereof to create the instant claimed invention.

In view thereof the rejection should be reversed.

2. The Examiner also rejected claim 7 in view of APA, Schreiner and Makai et al. and claims 11-13 in view of APA, Schreiner and Chamberlain

For the reasons previously discussed regarding the rejection of claims 1, 4, 5, 8-10, 15 and 17 under 35 USC §103 in view of APA and Schreiner (US 4,393,952), because claims 7 and 11-13 each depend from non-obvious claim 1, Applicants respectfully submit that such claims are also non-obvious by virtue of their dependency therefrom.

. Withdrawal of the rejection is respectfully requested.

3. Examiner rejected claims 1, 2, 4, 5, 8-10 and 15-17 under 35 USC §103 as being obvious in view of APA in view of Hamada (US 6,325,736) and claims 7 in view of APA, Hamada and Mukai and claims 11-13 in view of APA, Hamada and Chamberlain. Applicant respectfully traverses the rejections.

Applicant reasserts all argument made in the Applicants previous reply pertaining to the purported disclosure of APA. Applicant further asserts that the present invention pertains to

transmission systems comprising two transmission branches comprises a pair of driven wheels; that is, wheels that are powered.

Hamada is directed to a front-wheel-drive vehicle. The specific transmission system is disclosed for the rear wheels, which are idler wheels, see FIGS. 1 and 2. According to the claimed invention, each of the two transmission branches comprise a pair of driven wheels. Additionally, the present invention includes control units at each wheel for varying the speed of a left driven wheel with regard to a right driven wheel. Moreover, the present invention allows the differential gear to be eliminated; Hamada includes a differential.

Consequently, because APA in combination with Hamada does not disclose, teach or suggest each and every element of the claimed invention, the claimed invention is nonobvious in view thereof. Additionally, there is simply no motivation contained in any of APA, Hamada, Chamberlain or Mukai to combine the reference teachings in the manner of the applicant to create the claimed invention.

Withdrawal of the rejection is, thus, respectfully requested.

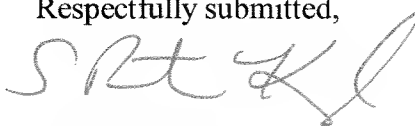
Serial No.: 10/707,782
Confirmation No.: 1781
Applicant: OLSSON, Karl-Erik
Atty. Ref.: 07589.0151.PCUS00

The undersigned representative requests any extension of time that may be deemed necessary to further the prosecution of this application.

The undersigned representative authorizes the Commissioner to charge any additional fees under 37 C.F.R. 1.16 or 1.17 that may be required, or credit any overpayment, to Deposit Account No. 14-1437, Order No. 07589.0151.PCUS00.

In order to facilitate the resolution of any issues or questions presented by this paper, Examiner should directly contact the undersigned by phone to further the discussion.

Respectfully submitted,



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Attachments
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